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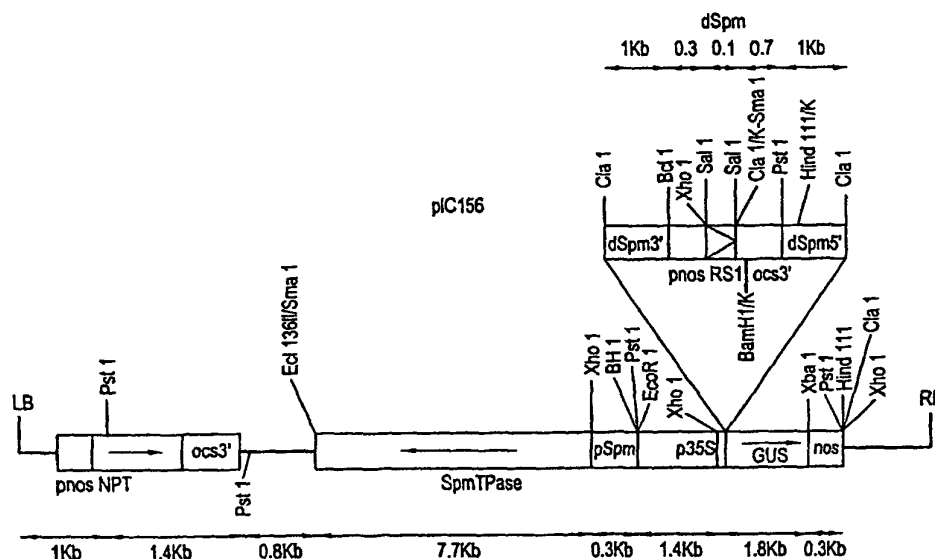
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(57) Abstract

Disclosed is a method of making transgenic plants. Heterologous DNA is first introduced into a donor plant, plant cell or protoplast to a plant cell or protoplast, and then moved from the donor to a recipient plant, plant cell or protoplast unaccompanied by any native genomic DNA of the donor. The donor and recipient are chosen that produce unstable progeny or demonstrate preferential segregation or sorting out. The DNA may be inserted randomly or at specific locations in the genome of the recipient plant. Also disclosed are transgenic plants produced by the methods, and plant progeny, plant parts and seeds and seed parts from the plants.

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PROCESS OF RAPID VARIETY-INDEPENDENT PLANT TRANSFORMATION

5 FIELD OF THE INVENTION

The present invention relates to methods of introducing genetic material of interest into plants, and more particularly to methods involving transformation and line conversion of plant species that have proven difficult to manipulate on a genetic level.

BACKGROUND OF THE INVENTION

10 Methodologies have evolved during the last twenty years to genetically engineer plants. In general, they are based on either direct DNA introduction into plant cells or indirect transfer mediated by *Agrobacterium tumefaciens*. Methods involving direct transfer include particle bombardment of cultured plant tissues and DNA introduction into naked plant cells *i.e.*, protoplasts, using polyethylene glycol or electroporation. See, *e.g.*,
15 Sawahel & Cove, *Biotech. Adv.* 10:394-412 (1992); Christou, *Cur. Opinion Biotech.* 4:135-141 (1993); Gelvin, *Cur. Opinion Biotech.* 9:227-232 (1998) and Birch, *Annu. Rev. Plant Physiol. Plant Mol. Biol.* 48:297-326 (1997) Most methods are variety-specific because they are based on use of *in vitro* grown regenerable plant systems which in turn are variety-specific. Except for a few economically important crops such as potato, tomato and canola,
20 transformation methods available currently work with only a handful of varieties.

The traditional backcross method of breeding has provided a mechanism for the transfer of a trait from one line (the donor) to another line (the recurrent parent). See, *e.g.*, Harlan and Pope, *J. Heredity*, 13:319-322 (1922). It has been particularly useful for corn, soybean and cotton. Successful backcross breeding requires: a previously derived
25 recurrent parent; maintenance of the trait of interest during selection; sufficient backcrosses to reconstitute the genome of the recurrent parent. Allard, *Principles of Plant Breeding*, Wiley and Sons (1960). During the backcross program, the hybrid population becomes increasingly homozygous for genes of the recurrent parent at a rate described by the formula:

$$\text{Proportion of homozygosity} = 1 - 0.5^m$$

30 where m is the number of backcross generations. Using this formula, one can calculate that more than 98% of the hybrid genome will be homozygous for genes of the recurrent parent after six generations. The formula, however, only describes regions of the genome that are unlinked with respect to the genes being introgressed. The rate at which linked regions approach homozygosity is dependent upon the chromosome recombination frequency. In one

of the most detailed studies assessing the effectiveness of traditional backcross breeding, eight Tm-2-converted isogenic lines of tomato were examined at nine flanking restriction fragment length polymorphism (RFLP) loci. See, Young and Tanksley, *Theor. Appl. Genet.* 77:353-359 (1989). The minimum donor chromosome fragment found after 10 generations of backcrossing and maintained without reduction in size for an additional nine generations was 4 cM the maximum size found even after 11 generations was 51 cM (*i.e.*, more than half of the corresponding chromosome). In marker-assisted selection based on simple sequence repeats (SSR) or RFLP, the reconstruction could be done faster and cleaner, but it would require screening of sizable populations of progeny using relatively expensive methods and would be complicated by the random insertion of transgenes in independent primary transformants.

Plainly, backcrossing is not a trivial task because for most crop plants, hundreds of lines, hybrids or varieties are needed simultaneously. In 1998 for example, the U.S. soybean seed market consisted of over 500 varieties, and the U.S. maize seed market included over 600 hybrids. Another major disadvantage of the backcrossing method is that it is very time- consuming. Line conversion through recurrent backcrossing normally requires 3 to 5 subsequent backcrosses, thus adding at least two and sometimes up to four years to variety development time.

There are many disadvantages associated with current transformation methods. Line conversion, for example, is a process whereby heterologous DNA is transferred from one plant species or variety to another using various forms of sexual (*i.e.*, pollination) or somatic (*i.e.*, cellular) hybridization. Because current methods are species- and variety-specific, they can be commercially used only in combination with line conversion technologies that allow for transgene transfer from a primary transformant into multiple varieties of interest. In addition, they result in random transgene insertion into the host genome. Therefore, extensive screening of numerous independent transformation events are required in order to identify the events that are stable, inheritable and allow for proper transgene expression. Subsequent transgene insertions cannot be addressed to the same site, thus complicating breeding. Linkage drag (*i.e.*, co-inheritance of unwanted traits) and a limited ability to handle multiple independent transgene traits present even further difficulties.

SUMMARY OF THE INVENTION

Applicants have invented a method of introducing nucleic acid into plants and producing genetically engineered plants. The methods are applicable to plants such as corn and wheat which have been quite difficult to genetically modify by existing technologies. In addition, the method constitutes a significant improvement over backcrossing methods because it achieves the same or better results in a much shorter time period.

The nucleic acid of interest is not introduced directly into the plant of interest or what is referred to as the recipient. Rather, it is first routed to another plant, different from the recipient, and which is referred to as the donor or the clipboard species. The nucleic acid is then moved from the donor to the recipient. One method entails sexual hybridization or "crossing" the two plants. Pollen from the donor is used to pollinate a recipient plant. Another method is conducted on the cellular level whereby cells or protoplasts of the donor and the recipient plants are fused. One feature of the invention allows for the nucleic acid to be moved from the donor to the recipient without the movement of any native genomic DNA of the donor. This is accomplished due to the selection of donor/recipient pairs that normally produce unstable hybrids. This means that the respective genomes are unstable and thus do not commingle so as to produce a "hybrid" plant. This phenomenon is hereinafter referred to as "producing unstable progeny or demonstrating preferential segregation or sorting out." During the temporary coexistence of the chromosomes of the donor and the recipient, the nucleic acid or the gene of interest is moved to the genome of the recipient plant. Another feature of the present invention accomplishes random or site-specific introduction of nucleic acid by surrounding the nucleic acid of interest with flanking sequences that allow transposition of the nucleic acid into a random location or direct the insertion of the nucleic acid into a specific location in the genome of the recipient.

Accordingly, one aspect of the present invention is directed to a method for introducing genetic material into plants, comprising:

preparing a first plant transformed with a heterologous nucleic acid having 5' and 3' excisable flanking sequences that allow movement of the heterologous nucleic acid from one genome to another;

crossing a second plant and the transformed first plant, wherein the first and second plants, upon crossing, produce unstable progeny or demonstrate preferential segregation or sorting out; and

selecting progeny of the second plant of (b) which contain the heterologous nucleic acid.

In preferred embodiments, the 5' and 3' excisable flanking sequences comprise a transposable element, and the first plant, the second plant or both the first plant and the second plant produce a transposase specific to the transposable element. In another preferred embodiment, the 5' and 3' excisable flanking sequences are recombination sites and the first plant, the second plant or both the first and second plants produce a recombinase specific to the recombination sites.

In other preferred embodiments, the first plant, also referred to as the donor or the clipboard species, is *Tripsacum* and in the second plant, also referred to as the recipient, is maize, wheat, barley or oat. In another preferred embodiment, the donor is *Orychophragmus* and the recipient is a crucifer such as canola. Other preferred donor/recipient pairs are: *Glycine tomentella*/soybean, *Solanum phreja*/potato, maize/wheat, maize/barley, maize/oat, *Pennisetum*/wheat, *Pennisetum*/barley, *Hordeum bulbosum*/barley, *Hordeum bulbosum*/wheat, *Nicotiana digluta*/*Nicotiana tabacum* and *Oryza minuta*/rice.

In other preferred embodiments, the donor and/or the recipient plant carries a *Se* semigamy mutation. In yet other preferred embodiments, the donor and/or recipient plant is soybean carrying a *ms* mutation causing polyembryony.

In other preferred embodiments of the process, transgenes are targeted into specific predefined genome sites through targeted recombination as an integrative locus.

A related aspect of the present invention is directed to a method for introducing genetic material into plants that is conducted on a somatic level. This method involves the following steps:

preparing a cell or protoplast of a first plant transformed with a heterologous nucleic acid having 5' and 3' excisable flanking sequences that allow movement of the heterologous nucleic acid from one genome to another;

fusing the cell or protoplast with a cell or protoplast of a second plant to produce a fused cell or a fused protoplast, wherein the first and second plants, upon crossing, produce unstable progeny or demonstrate preferential segregation or sorting out;

regenerating whole plants from the fused cell or the fused protoplast; and

selecting progeny of the regenerated plants that contain the heterologous nucleic acid. The fused cells or protoplasts *per se*, are also provided. Further, the methods of the present invention produce plants that have a different genetic make-up than transgenic

plants made by other methods because the end result of the process is an individual plant that is genetically devoid of any resident DNA of primary transformant (*i.e.*, the donor). Progeny of the plant, plant parts and seed and seed parts from the plant are also provided.

The methods of the present invention provide for transgene manipulation in essentially all crop species, especially the economically important varieties. The methods are not only generally applicable to essentially all crop species, but they are rapid (one to two crosses), free of linkage drag and variety-independent. In addition, the methods described are the only variety-independent process of transformation and line conversion that can be used for genetic engineering of complex lines/hybrids which cannot be recovered after crosses with other varieties.

BRIEF DESCRIPTION OF THE DRAWINGS

Fig. 1 is a linear plasmid map of pIC156;

Fig. 2 is a linear plasmid map of pIC216;

Fig. 3 is a linear plasmid map of pIC312;

Fig. 4 is a linear plasmid map of pIC31A2;

Fig. 5 is a linear plasmid map of pIC401; and

Fig. 6 is a linear plasmid map of pIC411.

DETAILED DESCRIPTION OF THE INVENTION

The methods of the present invention produce transformed plants by transforming a donor species or mutant with a construct capable of excision/reinsertion, preferably by a transposon-mediated or homologous or non-homologous recombination mechanism, crossing the donor with a recipient, whereas donor and recipient organisms have been selected from species/mutant combinations that upon sexual/somatic hybridization produce hybrids that are unstable and demonstrate genome instability and segregation of one or both pure parental genotypes, inducing or selecting for excision of the heterologous nucleic acid from the recipient and integration into the donor parental chromosome, and lastly, selecting a progeny that is essentially a genetically pure recipient plant that carries the transgene in question. The flow of heterologous genetic material is completely separated from resident gene flow during genetic manipulations by utilizing species or mutant combinations of recipient and donor organisms that upon sexual/somatic hybridization produce hybrids that show no recombination between homologous/homologous chromosomes and which are unstable and upon mitotic or meiotic divisions, sort out pure parental genomes of one or both types.

By the term "plant", it is meant to include all flowering plants, and all forms, lines and varieties of the plant. "Transformed" is used herein to mean genetically modified by the incorporation of heterologous DNA into cells. By the term "heterologous", it is meant DNA not normally found in the recipient plant.

5 Species-specific chromosome elimination (genome segregation) in interspecific/intergeneric hybrids is a well-documented phenomenon. In many cases, however, unstable hybrids were of limited interest as the main breeding efforts were aimed at chromosome exchange between two parental genomes as a method for introgression of alien chromosomal material. Prior to the time the present invention was made, unstable hybrids
10 segregating parental genomes were described only in terms of systems that produce haploid plants (interspecific, intergeneric crosses for production of haploid wheat, barley, potato) or in terms of negative results of attempts to achieve an introgression of chromosome material from wild species into cultivated crops (such as from *Tripsacum* to maize or *Glycine tomentella* to soybean).

15 In general, for every crop species (including all varieties and lines thereof), there is a wild relative or a mutant form, that, upon hybridization, forms an unstable hybrid and can serve as a donor or clipboard plant as defined herein. An empirical way to identify such an organism involves crossing a crop species of interest with a number of related species and testing the genetic makeup of the resulting progeny. Methods of preliminary
20 identification of progeny that is predominantly uniparental are known in the literature and are based on different selective or non-selective traits. Methods of broad and reliable genotyping of the progeny are numerous, simple, and rely on analysis of various markers in genomic DNA. Based on such primary screening and subsequent genotyping, suitable clipboard organisms can be rapidly identified. Beyond this basic criterion, the donor/recipient pairs are
25 chosen so as to provide a an adequate duration of the hybrid state in cells of primary hybrid, or of its progeny. While complete elimination is a desired end state, relative duration of coexistence of chromosomes of both species in the same cell is important as it provides sufficient time for the excision of transgene locus from the "clipboard" organism and its integration into the chromosome of recipient's chromosome.

30 Physical interaction and in particular, chromosome material exchange between parental genomes in a hybrid, can be excluded or minimized in a number of different ways. The most well-known approach is based on the use of interspecific or intergeneric hybridization -- the hybrids produced show little if any homologous chromosome pairing,

thus limiting crossover. In addition, many of such hybrids are more or less genetically unstable and show tendency for a rapid elimination of one parental genome. As a result, by using such a cross, the chromosomes of two remote parental organisms may be placed in a hybrid nucleus to produce a hybrid state for directed exchange of transgene material between the parents. However, resident chromosome material of the two parents essentially does not interact, and subsequent chromosome elimination will allow for elimination of one parent as soon as F₀, F₁ or BC₁ progeny.

In addition to hybridization between remote species as a process that allows for a temporary hybrid state followed by rapid recovery of pure parental genomes, there are other approaches that achieve similar results. One such approach is based on the use of mutants that reduce or eliminate chromosome crossover and/or those that cause pure parental genome segregation in intra-specific as well as interspecific crosses. One example is semigamy in cotton, a mutation which causes sperm nucleus to enter egg cell but subsequent nuclear fusion supposedly does not take place and both nuclei divide independently resulting in F₁ plants that are chimeral for sectors of haploid tissues of paternal and maternal type. See, Turcotte and Feaster, *J. Hered.* 58:55-57 (1967). Another approach is the well-characterized *Oenothera* system in which all chromosomes are involved in translocations in such a way that the F₁ crosses with normal stocks will have at meiosis a ring containing the entire haploid number of chromosomes, thus excluding independent chromosome sorting out. A further approach to the use of chemical/physical treatments such as irradiation (Pandey, *N. Z. J. Bot.*, 18:203-207 (1980)) or other, of one parent that result in a damage and subsequent preferential elimination of damaged genome. Such an approach has been instrumental in production of gynogenetic onion plants after pollinating with gamma-irradiated pollen. See, Dore & Marie, *Plant Breeding* 111:142-147 (1993).

To carry out the present invention for any given plant, a wild or remote relative can be found that allows for genetically unstable hybrids that are characterized by rapid genome segregation. Well-characterized combinations involving economically important crops are summarized below.

Insofar as dicotyledonous crops are concerned, the best studied case for potato is a hybridization between commercial varieties of potato, *Solanum tuberosum*, and a wild species *Solanum phureja*, that results in high frequency of haploid production as a result of early *phureja* chromosome elimination in hybrid embryo - Hougas, *et al.*, *Crop. Sci.* 4:593-

595 (1964); Clulow, *et al.*, *Theor. Appl. Genet.* 82:545-551 (1991). Regarding Canola/Rapeseed, somatic separation of the parental genomes in hybrids between *Brassica napus* and *Orychophragmus violaceus* is described in Li, Z., *et al.*, *Theor. Appl. Genet.* 91:131-136 (1995); Li, *et al.*, *Hereditas* 125: 69-75 (1996); Li, *et al.*, *Theor. Appl. Genet.* 96:251-265 (1998); Wu, J., *et al.*, *Plant Breeding* 116:251-257 (1997). The hybrid is morphologically intermediate but is self-fertile and upon selfing produces mostly *B. napus* progeny. *Orychophragmus* method works also with *Brassica juncea* and *Brassica carinata*, two other *Brassica* species of economic importance. It will also operate with other economically crucifers such as *B. oleracea*, *B. campestris*, *Raphanus sativus*. Regarding soybean, wild species genome elimination in the progeny of a hybrid between soybean and *Glycine tomentella* is documented in Shoemaker, *et al.*, *Theor. Appl. Genet.* 80:17-23 (1990). Yet other examples of matroclinous plants result from crosses between *Fragaria vesca* (strawberries) and *Fragaria chiloensis* or *F. virginiana* (Ichijima, *Genetics*, 11:590-604 (1926)) as well as patroclinous plants from crosses between *Nicotiana glauca* and *N. tabacum* (tobacco, Clausen and Lammerts, *Amer. Nat.* 63:279-322 (1929)).

Insofar as monocotyledonous crops are concerned, Galinat, *Ann. Rev. Genet.*, 5: 447-478 (1971) and Galinat, *Evolution*, 27:644-655 (1973), demonstrated that in a cross between a diploid maize and a diploid *Tripsacum dactyloides*, the F₁ hybrid had the expected amphihaploid chromosome number. *Tripsacum* chromosomes could not pair in meiosis, however, and since *Tripsacum* chromosomes tend to be lost during mitosis as well as meiosis, diploid maize was recovered as soon as BC₁. These results have been routinely reproduced in numerous breeding labs around the world. When wheat or barley is crossed with wild species *Hordeum bulbosum*, a high frequency of haploids is obtained as a result of fertilization and subsequent elimination of *bulbosum* genome (Kasha and Kao, *Nature* 225:874-876 (1970); Barclay, *Nature* 256:410-411 (1975)). The method has been widely used for haploid production of numerous varieties of both crops. *Bulbosum* method has been replaced by wide crosses, wherein wheat (both *Triticum aestivum* as well as *T. turgidum*), triticale or barley plants are pollinated by pollen of maize, sorghum, pearl millet or *Tripsacum*. The resultant hybrids are highly unstable and as a rule, developing plants retain only maternal genome. This haploidy method works with dozens of wheat varieties and is essentially variety-independent. Laurie and Bennett, *Theor. Appl. Genet.* 76:393-397 (1988); Ohkawa, *et al.*, *Jap. J. Breed.* 42:891-894, (1992); Ushiyama, *et al.*, *Jap. J. Breed.* 41:353-357 (1991); Furusho, *et al.*, *Jap. J. Breed.* 41:175-179 (1991); Laurie, *Genome*, 32:1063-1067

(1989). The same method is also applicable for haploid production in oats. See, Rines and Dahleen, *Crop Sci.*, 30, 1073 (1990). Preferential genome segregation also occurs in progenies of interspecific rice (*Oryza*) combinations, such as *O. sativa* and *O. minuta*. See, Mariam, *et al.*, *Theor. Appl. Genet.* 93:664-671 (1996).

5 In summary, the literature provides examples of numerous, well characterized hybridization combinations that when used in accordance with the present invention, allow for the creation of a temporary hybrid state during which heterologous genetic material may be exchanged. In addition, many wild species may be used as transgene donors for rapid and linkage drag-free transgene transfer into multiple species of important crops. Wild species
10 include *Tripsacum* (e.g., for maize, wheat, barley and oats); *Oryza minuta* (e.g., for rice), *Orychophragmus* (e.g., for canola and other economically important crucifers); *Solanum phureja* (e.g., for potato), and *Glycine tomentella* (e.g., for soybean). Mutants such as a semigamy mutant of cotton or a ms mutation causing polyembryony in soybean may also be used for the same purpose. Similar species combinations or mutants may be easily identified
15 for other important crop species including sugar beets, peas and tomatoes. The donor species is transformed with an exogenous or heterologous construct that contains genetic information, the genetic instructions necessary to direct the excision of the transgene in question and its reintegration into another chromosome based on either homologous or non-homologous recombination mechanisms, and the DNA of interest. To facilitate selection of successful
20 transformants, the construct also contains DNA encoding a selectable marker such as a trait to be monitored (e.g., antibiotic or herbicide resistance or a phenotypic marker, in particular beta-glucuronidase and/or green fluorescent protein). The DNA of interest may contain one or more genes encoding different proteins. Expression of the genes in progeny of the recipient plant may result in greater resistance to fungal, viral and/or bacterial diseases, pests,
25 insecticides or environmental stress, or may result in improved flavor, storage or nutritional properties. The recipient organism may be an untransformed plant or a plant transformed to contain in its genome specific sites necessary for homologous recombination exchange with the exogenous DNA inserts in donor genome.

 In preferred embodiments, the heterologous DNA is moved from the donor to
30 the recipient via a system based on (1) transposon-mediated non-homologous transgene transfer or (2) targeted transfer utilizing homologous recombination mechanisms. Transposons are mobile genetic elements that can comprise a substantial part of the genome of a plant and create tremendous phenotypic diversity. Transposable elements are mobile

segments of DNA capable of excision and reinsertion into another locus on a chromosome. Plant transposons are among first mobile DNA elements described and a number of plant transposable elements that have been cloned, such as Ac/DS, Mu and En/Spm, are preferred for use in the present invention. These transposable elements are currently used as genetic tools in plant molecular biology and biotechnology. They serve as invaluable tools for plant developmental studies and for plant genome analysis and plant gene isolation through the so-called insertional mutagenesis and tagging. See, *e.g.*, Walbot, *Ann. Rev. Plant Mol. Biol.* 43:49-82 (1992). Other examples of transposable elements for use in the present invention are described in Fedoroff, U.S. Patent 4,732,856; Dooner *et al.*, PCT Application WO91/156074; etc.), Yoder and Lassner, PCT Application WO92/01370, and Ebinuma *et al.*, PCT Application WO96/15252.

For the purposes of the present invention, transposon-based excision and reinsertion of transgenes is a system that allows for the disconnection of the transgene movement from the resident plant gene movement during crosses while providing an additional important advantage of full instructions directing transgene excision and reinsertion in just one genetic construct and via one transformation step. Thus, the system does not require genetic engineering of landing sites in recipient organisms.

In another preferred embodiment, the heterologous DNA is integrated in a specific site of the recipient genome by use of a recombinase and recombination site combination. Site-specific recombinases from bacteriophage and yeasts are being widely used as tools for manipulating DNA both in the test-tube and in living organisms. Preferred recombinases/recombination site combinations for use in the present invention are Cre-*Lox*, FLP-*FRT*, and R-*RS*, where Cre, FLP and R are recombinases, and *Lox*, *FRT*, and *RS* are the recombination sites. Other suitable systems include the intron-encoded yeast endonuclease I-SceI, may be used. See, Choulika, *et al.*, *Mol. Cell Biol.* 15:1968-1973 (1995). To be functional in plants, these sites require 7-8 base pairs (bp) of core sequence between 12-13 bp inverted repeats; the asymmetric core site determines the site orientation, and thus the types of recombination product. Regardless of whether recombination sites are placed on or within a single DNA molecule in direct or opposite orientation, or placed on unlinked linear or circular DNA molecules, the corresponding recombinase can catalyze the reciprocal exchange to produce a deletion, inversion, translocation or co-integration event. See, Bollag, *et al.*, *Ann. Rev. Genet.* 23:199-225 (1989); Kilby, *et al.*, *Trends Genet.* 9:413-421 (1993); and Ow, *Curr. Opinion Biotech.* 7:181-186 (1996). In the present invention, recombinase-

mediated site-specific translocation occurs between different, and in particular non-homologous chromosomes. This in-trans recombinase effect is essential in order to effect transfer of transgenes between two chromosomes belonging to different parents in a hybrid. See, Dale and Ow, *Gene* 91:79-85 (1990); Odell, *et al.*, *Mol. Gen. Genet.* 223:369-378 (1990); Dale and Ow, *Proc. Natl. Acad. Sci. USA* 88:10558-10562 (1991); Russell, *et al.*, *Mol. Gen. Genet.* 234:49-59 (1992); Lyznik, *et al.*, *Plant J.* 8:177-186 (1995); Albert, *et al.*, *Plant J.* 7:649-659 (1995); van Deursen *et al.*, *Proc. Natl. Acad. Sci. USA* 92:7376-7380 (1995).

Examples of suitable homologous recombination systems for use in the present invention are disclosed in the literature, including the Cre-Lox system (Sauer, U.S. Patent 4,959,317, Odell, *et al.*, U.S. Patent 5,658,772; Odell, *et al.*, PCT WO91/09957) and the FLP-FRT system (Hodges and Lyznik, U.S. Patent 5,527,695). One particular utility of known recombination systems for transgene management in plants is directed excision of a transgene from plant genome, a procedure that allows elimination of unwanted heterologous genetic material such as antibiotic selective markers from a commercial variety (Ow and Dale, PCT WO93/01283). These systems, however, address an entirely different utility area, namely, the use of homologous recombination to eliminate unwanted portions of heterologous DNA, rather than to manage separation of flows of transgenes and resident plant genes. Another utility is described in Hooykaas and Mozo, U.S. Patent 5,635,381, and Offringa, *et al.*, U.S. Patent 5,501,967, directed to the use of homologous recombination systems to achieve a site-directed targeted integration of DNA into plant genomes via *Agrobacterium*-mediated transformation. These cases also are limited to targeted transfer between bacteria and plant cells rather than between two plant organisms.

Homologous recombination-based transgene shuffling has both clear and strong advantages. By employing precise targeting via homology-addressed DNA sites, transgene "landing sites" can be created that are carefully selected and characterized in advance. As a result, higher level of predictability and reproducibility of transgene behavior, including heritability, expression level, absence of silencing, etc., is achieved. Also, later versions of the transgene cassette can be addressed to the same site, replacing old versions of transgenes with newer ones. Subsequent breeding of the material with a preselected and determined and mapped integration sites is much easier and straightforward. Those skilled in the art will appreciate that this system can be used only if all recipients have been "pre-wired" to contain integration sites. Such an introgression is possible by using other transfer

mechanisms, for example, transposon-mediated transfer or classical introgression by backcrossing. In more specific cases, a recombinase gene also can be introduced into acceptor species in addition to its recombination site. In such cases, the recombinase gene will be under control of artificial transcription factor-mediated promoter where transcription factor is constitutively expressed by the gene located in donor (clipboard) plant. Recombinase can be produced only during the co-existence of two genomes in unstable hybrids. Alternatively, recombinase can be located in clipboard plant, but the transcription factor is constitutively expressed in the recipient plant.

The heterologous DNA may be introduced into the donor plant in accordance with standard techniques. Transformation techniques for dicotyledons are well known in the art and include *Agrobacterium*-based techniques and techniques which do not require *Agrobacterium*. Non-*Agrobacterium* techniques involve the uptake of exogenous genetic material directly by protoplasts or cells. These techniques include PEG or electroporation mediated uptake, particle bombardment-mediated delivery and microinjection. Examples of these techniques are described in Paszkowski *et al.*, EMBO J 3:2717-2722 (1984), Potrykis *et al.*, Mol. Gen. Genet. 199:169-177 (1985), Reich *et al.*, Biotechnology 4:1001-1004 (1986), and Klein *et al.*, Nature 327:70-73 (1987). In each case, the transformed cells are regenerated to whole plants using standard techniques.

Agrobacterium-mediated transformation is a preferred technique for transformation of dicotyledons because of its high efficiency of transformation and its broad utility with many different species. The many crop species which are routinely transformable by *Agrobacterium* include tobacco, tomato, sunflower, cotton, oilseed rape, potato, soybean, alfalfa and poplar (EP 0 317 511 (cotton), EP 0 249 432 (tomato), WO 87/07299 (*Brassica*), U.S. Patent 4,795,855 (poplar)). *Agrobacterium* transformation typically involves the transfer of the binary vector carrying the foreign DNA of interest (*e.g.* pCIB200 or pCIB2001) to an appropriate *Agrobacterium* strain which may depend on the complement of *vir* genes carried by the host *Agrobacterium* strain either on a co-resident plasmid or chromosomally (*e.g.*, strain CIB542 for pCIB200 (Uknes *et al.*, Plant Cell 5:159-169 (1993))). The transfer of the recombinant binary vector, to *Agrobacterium* is accomplished by a triparental mating procedure using *E. coli* carrying the recombinant binary vector, a helper *E. coli* strain which carries a plasmid such as pRK2013 which is able to mobilize the recombinant binary vector to the target *Agrobacterium* strain. Alternatively, the recombinant

binary vector is transferred to *Agrobacterium* by DNA transformation (Höfgen & Willmitzer, Nucl. Acids Res. 16, 9877 (1988)).

Transformation of the target plant species by recombinant *Agrobacterium* usually involves co-cultivation of the *Agrobacterium* with explants from the plant and follows protocols known in the art. Transformed tissue is regenerated on selectable medium carrying an antibiotic or herbicide resistance marker present between the binary plasmid T-DNA borders.

Preferred transformation techniques for monocots include direct gene transfer into protoplasts using PEG or electroporation techniques and particle bombardment into callus tissue. Transformation can be undertaken with a single DNA species or multiple DNA species (*i.e.* co-transformation) and both these techniques are suitable for use with this invention. Co-transformation may have the advantage of avoiding complex vector construction and of generating transgenic plants with unlinked loci for the gene of interest and the selectable marker, enabling the removal of the selectable marker in subsequent generations, should this be regarded desirable. However, a disadvantage of the use of co-transformation is the less than 100% frequency with which separate DNA species are integrated into the genome (Schocher *et al.*, Biotechnology 4:1093-1096 (1986)).

Published Patent Applications EP O 292 435, EP O 392 225 and WO 93/07278 describe techniques for the preparation of callus and protoplasts of maize, transformation of protoplasts using PEG or electroporation, and the regeneration of maize plants from transformed protoplasts. Gordeon-Kamm, *et al.*, Plant Cell 2:603-618 (1990), and Fromm, *et al.*, Biotechnology 11:194-200 (1993), describe techniques for the transformation of elite inbred lines of maize by particle bombardment.

Transformation of rice can also be undertaken by direct gene transfer techniques utilizing protoplasts or particle bombardment. Protoplast-mediated transformation has been described for *Japonica*-types and *Indica*-types (Zhange, *et al.*, Plant Cell Rep. 7:739-744 (1988); Shimamoto, *et al.*, Nature 338:274-277 (1989); Datta, *et al.*, Biotechnology 8:736-740 (1990)). Both types are also routinely transformable using particle bombardment (Christou, *et al.*, Biotechnology 9:957-962 (1991)).

Patent Application EP 0 332 581 describes techniques for the generation, transformation and regeneration of *Pooideae* protoplasts. Furthermore wheat transformation is described in Vasil, *et al.*, Biotechnology 10:667-674 (1992) using particle bombardment into cells of type C long-term regenerable callus, Vasil, *et al.*, Biotechnology 11:1553-1558

(1993) and Weeks, *et al.*, Plant Physiol. 102:1077-1084 (1993) describe particle bombardment of immature embryos and immature embryo-derived callus.

Transformation of monocot cells such as *Zea mays* is achieved by bringing the monocot cells into contact with a multiplicity of needle-like bodies on which these cells may be impaled, causing a rupture in the cell wall thereby allowing entry of transforming DNA into the cells. See U.S. Patent 5,302,523. Transformation techniques applicable to both monocots and dicots are also disclosed in the following U.S. Patents: 5,240,855 (particle gun); 5,204,253 (cold gas shock accelerated microprojectiles); 5,179,022 (biolistic apparatus); 4,743,548 and 5,114,854 (microinjection); and 5,149,655 5,120,657 (accelerated particle mediated transformation); 5,066,587 (gas driven microprojectile accelerator); 5,015,580 (particle-mediated transformation of soy bean plants); 5,013,660 (laser beam-mediated transformation); 4,849,355 and 4,663,292.

The thus-transformed plant cells or plant tissue are then grown into full plants in accordance with standard techniques. Transgenic seed can be obtained from transgenic flowering plants in accordance with standard techniques. Likewise, non-flowering plants such as potato and sugar beets can be propagated by a variety of known procedures. See, e.g., Newell *et al.* Plant Cell Rep. 10:30-34 (1991) (disclosing potato transformation by stem culture).

In another embodiment of the present invention, the heterologous nucleic acid is transferred from the donor to the genome of the recipient plant via fusion of somatic cells or protoplasts. An advantage of this embodiment is that some of hybridization barriers limiting sexual crossing are bypassed. This technology is more complex than sexual crossing, however, and it can be used only for crosses between species that can be regenerated from a protoplast. Thus, it is preferred to use donor and recipient plants that are unrelated. Examples of such pairings include *Arabidopsis*/cotton, *Arabidopsis*/soybean, *Arabidopsis*/rice and tobacco/soybean. On the other hand, although hybrids between distantly related species (intergeneric, intertribal and interfamilial) have been created using protoplast hybridization, the ability of two phylogenetically distant genomes to cooperate in a hybrid cell has been limited and hybrid cells are often unstable and quickly lose genetic material of one of parental species. See, Gleba & Sytnik, *Monogr. Theor. Appl. Genet.* 8:1-220 (1984), Dudits, *et al.*, *Proc. Nat. Acad. Sci. USA* 84:8434-8438 (1987), and Babiychuk, *et al.*, *Mol. Gen. Genet.* 84:87-91 (1992). Thus, pairings of related donor and recipient plants that are distantly related are more preferred.

The experiments described below are summaries of successful transformation and line conversion for four important crop species (canola, potato, maize and wheat) based on use of specific species hybridization combinations and either transposon- or homologous recombination-based transgene excision/reinsertion. These examples are presented merely to illustrate specific embodiments of the present invention, and are not intended to provide any limitations to the invention not set forth in the claims.

Examples

Example I

Transformation/line conversion of *Brassica* species

10 *Designing the constructs.*

Binary vectors containing components of *Z. mays* transposable element *Spm* within T-DNA borders were made as described below.

Plasmid pIC012 was digested with *Xho*I and *Sma*I, large fragment was gel purified and ligated with *RS* fragment produced by *Xho*I and *Cl*aI/Klenow treatment. Resulting plasmid pIC013, containing pNOS-*RS*-3'*OCS* in pUC118, was digested with *Pst*I and *Bcl*I, gel-purified and ligated with large fragment of pIC017 digested with the same enzymes. Plasmid pIC23, containing d*Spm* element with pNOS-*RS*-3'*OCS* was consequently treated with *Hind*III/Klenow and *Bam*H1/Klenow in order to remove *Hind*III and *Bam*H1 sites. Large *Cl*aI fragment of pIC23 (-*Bam*H1;-*Hind*III) was cloned into *Cl*aI site of pIC201, giving d*Spm* element flanked by p35*S* and *GUS*-3'*NOS* (pIC132). Plasmid pIC132 was digested with *Eco*R1 and *Hind*III. Large fragment was gel-purified and cloned into *Eco*R1 and *Hind*III sites of binary vector based on pRK290 and carrying *NPTII* gene as the plant transformation marker. Resulting plasmid pIC141 was digested with *Ecl*136II and *Hind*III, ligated with 0.3 kb *Xho*I – *Bam*H1 fragment of pIC022 and 7.7 kb *Xho*I-*Sma*I fragment of pIC023 in order to introduce *Spm* transposase under control of 35*S* promoter into the binary vector. Plasmid pIC156 was obtained and used in transformation experiments. Plasmid pIC216 was made in similar way, but *Xho*I – *Bam*H1 fragment of pIC022 was replaced by 0.2 kb *Xho*I-*Bgl*II fragment (p*Spm*) of pIC61.

Cloning steps for another four vectors were only different from the described above by the stages of equipping d*Spm* element with either pNOS:*BAR*-*OCS*3' or with pNOS:*BAR*-*OCS*3' where *BAR* was flanked by two *RS* sites. The plasmid pIC132 was digested with *Pst*I, *Bcl*I, gel-purified and ligated with 1.5 kb *Pst*I, *Bcl*I fragment of pIC016, giving the d*Spm* element with pNOS:*BAR*-*OCS*3'.

For constructs pIC401 and pIC411 large *Xho*I-*Nco*I fragment of pIC01 was ligated with small fragment of *Bsp*HI – *Bam*HI fragment of pIC018 and two *RS* fragments flanked with *Nco*I- *Bsp*HI and *Bgl*II- *Xho*I sites respectively. Resulting plasmid pIC38 consists of *BAR* gene flanked by two *RS* sites. Small *Xho*I fragment of pIC36 was recloned into *Xho*I site of pIC334 giving plasmid pIC342 with p*NOS*:*RS-BAR-RS-OCS3*'. The last cassette was re-cloned into d*Spm* element as described above.

In summary, constructs obtained consist of transformation marker (NPTII gene conferring resistance to kanamycin), source of *Spm* transposase under control of either 35S or its own promoter, non-autonomous d*Spm* element inserted within p35S:*GUS* excision marker. Three different versions of d*Spm* element were made:

a) d*Spm* contains *NOS* promoter separated by *RS* site (recombination site recognized by R recombinase from *Z. rouxii*) from the terminator of transcription of *OCS* gene. (See: pIC156 and pIC216, Figs. 1 and 2).

b) d*Spm* contains p*NOS*:*BAR-OCS3*'. (pIC312, pIC31A2, Figs.3 and 4).

c) d*Spm* contains p*NOS*:*BAR-OCS3*', but *BAR* gene is flanked by two unidirectional *RS* sites (pIC401, pIC411, Figs. 5 and 6).

Constructs were tested in *Arabidopsis* using *in planta* transformation procedure. The d*Spm* excision can be easily monitored in primary transformants by the presence of GUS+ sectors after staining of plant tissues with X-gluc. All constructs showed high transposition activity in *Arabidopsis* and were used to obtain and characterize several *Orychophragmus violaceus* transformants.

Line conversion using O. violaceus.

Seed of *Orychophragmus violaceus* were sterilized and germinated *in vitro*. The transformation of *in vitro* grown plants of the species has been done as previously described for *Brassica* species (De Block, *et al.*, *Plant Physiol.*, 91, 694-701 (1989). The constructs used were *Agrobacterium*-based carrying *Spm* transposase along with different versions of non-autonomous d*Spm* element inserted between 35S CaMV promoter and GUS gene (see Fig.1) The plasmids were used to produce transformed *Orychophragmus* plants. Several transgenic plants have been produced and characterized. Two independent transformants containing a single copy insertion have been crossed as male parents to different *Brassica* species (*B.nigra*, *B.juncea*, *B.napus*, *B. carinata*) and *Sinapsis alba* as previously described. In total, approximately 600 crosses were done. The resultant hybrids were allowed to self and the F₁ progeny has been selected for the presence of d*Spm* element

(PCR analysis or phosphinotricin resistance). Those surviving selection were further screened for pure *Brassica* phenotype and for absence of GUS activity, and, finally, tested for absence of either transposase sequences, or species-specific *Orychophragmus* repeats. Finally, co-segregation of dSpm with a *Brassica* chromosome-specific RFLP pattern has been established by analyzing the F₂ progeny.

Line conversion using Arabidopsis thaliana.

In the examples that follow, all experiments were performed as described above except that instead of *O. violaceus*, *A. thaliana* plants were used as male parents. *Arabidopsis* is easy to transform and has short life cycle. These features make *Arabidopsis* excellent candidate for the clipboard species.

Example II

Transformation/line conversion of *Brassica napus*

Seed of *Brassica napus*, var. and those of *Orychophragmus violaceus* were sterilized and germinated *in vitro*. Transformation was performed as described in (De Block, *et al.*, *Plant Physiol.* 91:694-701 (1989). *Orychophragmus* seed was transformed with *Agrobacterium*-based vector pII2 containing gene for R recombinase and a promoterless gene for hygromycin resistance flanked by two *rsx* recombination sites. Rape seed organism was transformed with vector pII3 containing a 35S CaMV promoter with a *RS* recombinant site, so that proper recombination would create an active HPT gene conferring hygromycine resistance. Two independent transformed plants of each species were selected based on molecular analysis of the transgenics. Crosses and analysis of the progeny was performed as in Example II.

Example III

Transformation/line conversion of potato

Experiments were performed as above (Example I) except transgenic *Solanum phureja* was used as a pollen partner. The crosses were performed as described in Hermsen, *et al.*, *Euphytica* 22:244-259 (1973), and primary converted lines were selected as F₀ diploidized dihaploids.

Example IV

Transformation/line conversion of maize

Tripsacum dactyloides line was used in this experiment as a transgene donor. The constructs used were *Agrobacterium*-based as shown in Figure 1, carrying Spm transposase along with non-autonomous dSpm element inserted between 35S CaMV

promoter and GUS gene, the dSpm containing either one RS recombination site or one selectable marker (*BAR*) with (pIC401, pIC411) or without (pIC312, pIC31A2) RS sites. Transformation of the parental material was essentially performed as described in Hiei, *et al.*, *Plant Mol. Biol.* 35:205-218 (1997). Transgenic plants were crossed with maize, var., and the resultant progeny was selfed. Pure maize-type segregates were screened from among the BC₁ that showed phosphinotricin resistance or dSpm-specific PCR signal. Those surviving selection were further screened for pure maize phenotype and for absence of GUS activity, and, finally, tested for absence of either transposase sequences, or species-specific *Tripsacum* repeats. Finally, co-segregation of either phosphinotricin resistance or dSpm-specific PCR signal with a maize chromosome-specific RFLP pattern was established by analyzing the BC/F₂ progeny.

Example V

Transformation/line conversion of wheat.

The experiments were performed as in previous example (Example IV) except the crosses were performed as described in Riera-Lizarazu & Mujeeb-Kazi, *Crop Sci.* 33:973-976 (1993). Primary converted lines were selected as F₀ diploidized haploids emerging from the crosses.

INDUSTRIAL APPLICABILITY

The present invention is useful in the production of genetically engineered plants that exhibit a wide array of properties that may include enhanced resistance to viruses, fungi, bacterial diseases, pests, pesticides or environmental stress, as well as for the enhancement of other commercially desirable properties such as improved flavor, storage or nutritional properties.

All publications mentioned in this specification are indicative of the level of skill of persons skilled in the art to which this invention pertains. All these publications are herein incorporated by reference to the same extent as if each individual publication was specifically and individually indicated to be incorporated by reference.

Various modifications of the invention described herein will become apparent to those skilled in the art. Such modifications are intended to fall within the scope of the appending claims.

CLAIMS:

1. A method for introducing genetic material into plants, comprising:
preparing a first plant transformed with a heterologous nucleic acid having 5' and 3' excisable flanking sequences that allow movement of said heterologous nucleic acid
5 from one genome to another;
crossing a second plant and the transformed first plant, wherein said first and second plants, upon crossing, produce unstable progeny or demonstrate preferential segregation or sorting out; and
selecting progeny of said second plant of (b) which contain said heterologous
10 nucleic acid.
2. The method of claim 1, wherein said 5' and 3' excisable flanking sequences comprise a transposable element, and wherein said first plant, said second plant or both said first plant and said second plants produce a transposase specific to said transposable element.
- 15 3. The method of claim 1, wherein said 5' and 3' excisable flanking sequences are recombination sites and wherein said first plant, said second plant or both said first and second plants produce a recombinase specific to said recombination sites.
4. The method of claim 1, wherein said first plant is *Tripsacum* and said second plant is maize.
- 20 5. The method of claim 1, wherein said first plant is *Tripsacum* and said second plant is wheat.
6. The method of claim 1, wherein said first plant is *Tripsacum* and said second plant is barley.
7. The method of claim 1 wherein said first plant is *Tripsacum* and said
25 second plant is oat.
8. The method of claim 1 wherein said first plant is *Orychophragmus* and said second plant is a crucifer.
9. The method of claim 1 wherein said first plant is *Arabidopsis* and said second plant is a crucifer.
- 30 10. The method of claim 8 wherein said crucifer is canola.
11. The method of claim 1, wherein said first plant is *Glycine tomentella* and said second plant is soybean.

12. The method of claim 1, wherein said first plant is *Solanum phreja* and said second plant is potato.

13. The method of claim 1, wherein said first plant is maize and said second plant is wheat.

5 14. The method of claim 1, wherein said first plant is maize and said second plant is barley.

15. The method of claim 1, wherein said first plant is maize and said second plant is oats.

10 16. The method of claim 1, wherein said first plant is *Pennisetum* and said second plant is wheat.

17. The method of claim 1, wherein said first plant is *Pennisetum* and said second plant is barley.

18. The method of claim 1, wherein said first plant is *Hordeum bulbosum* and said second plant is barley.

15 19. The method of claim 1, wherein said first plant is *Hordeum bulbosum* and said second plant is wheat.

20. The method of claim 1, wherein said first plant is *Oryza minuta* and said second plant is rice.

20 21. The method of claim 1, wherein said first plant is *Nicotiana glauca* and said second plant is *Nicotiana tabacum*.

22. The method of claim 1, wherein one or both said first and second plants is cotton carrying a *Se* semigamy mutation.

23. The method of claim 1, wherein one of said first and second plants is soybean carrying a *ms* mutation causing polyembryony.

25 24. The method of Claim 1, wherein said first plant is *Arabidopsis*.

25. A method for introducing genetic material into plants, comprising:

(a) preparing a cell or protoplast of a first plant transformed with a heterologous nucleic acid having 5' and 3' excisable flanking sequences that allow movement of said heterologous nucleic acid from one genome to another;

30 (b) fusing said cell or protoplast with a cell or protoplast of a second plant to produce a fused cell or a fused protoplast, wherein said first and second plants, upon crossing, produce unstable progeny or demonstrate segregation preferential or sorting out;

(c) regenerating whole plants from the fused cell or the fused protoplast; and

(d) selecting progeny of said regenerated plants of (c) which contain said heterologous nucleic acid.

26. The method of claim 25, wherein said 5' and 3' excisable flanking sequences comprise a recombination site.

5 27. The method of claim 25, wherein said fusing is conducted in medium containing a recombinase specific for said recombination site.

28. The method of claim 25, wherein said first plant species, said second plant species or both said first and second plant species produce a recombinase specific to said recombination sites.

10 29. The method of claim 25, wherein said 5' and 3' excisable flanking sequences comprise a transposable element, and wherein said first plant, said second plant or both said first plant and said second plants produce a transposase specific to said transposable element.

15 30. The method of claim 25 wherein said first plant is *Arabidopsis* and said second plant is cotton.

31. The method of claim 25 wherein said first plant is *Arabidopsis* and said second plant is soybean.

32. The method of claim 25 wherein said first plant is *Arabidopsis* and said second plant is rice.

20 33. A whole plant containing a heterologous nucleic acid, prepared by the method of Claim 1 or Claim 24.

34. Seed or seed parts from the whole plant of Claim 33.

35 Progeny of the plant of Claim 33.

25 36. A fused cell or fused protoplast produced by the method of Claim 25(b).

FIG. 1

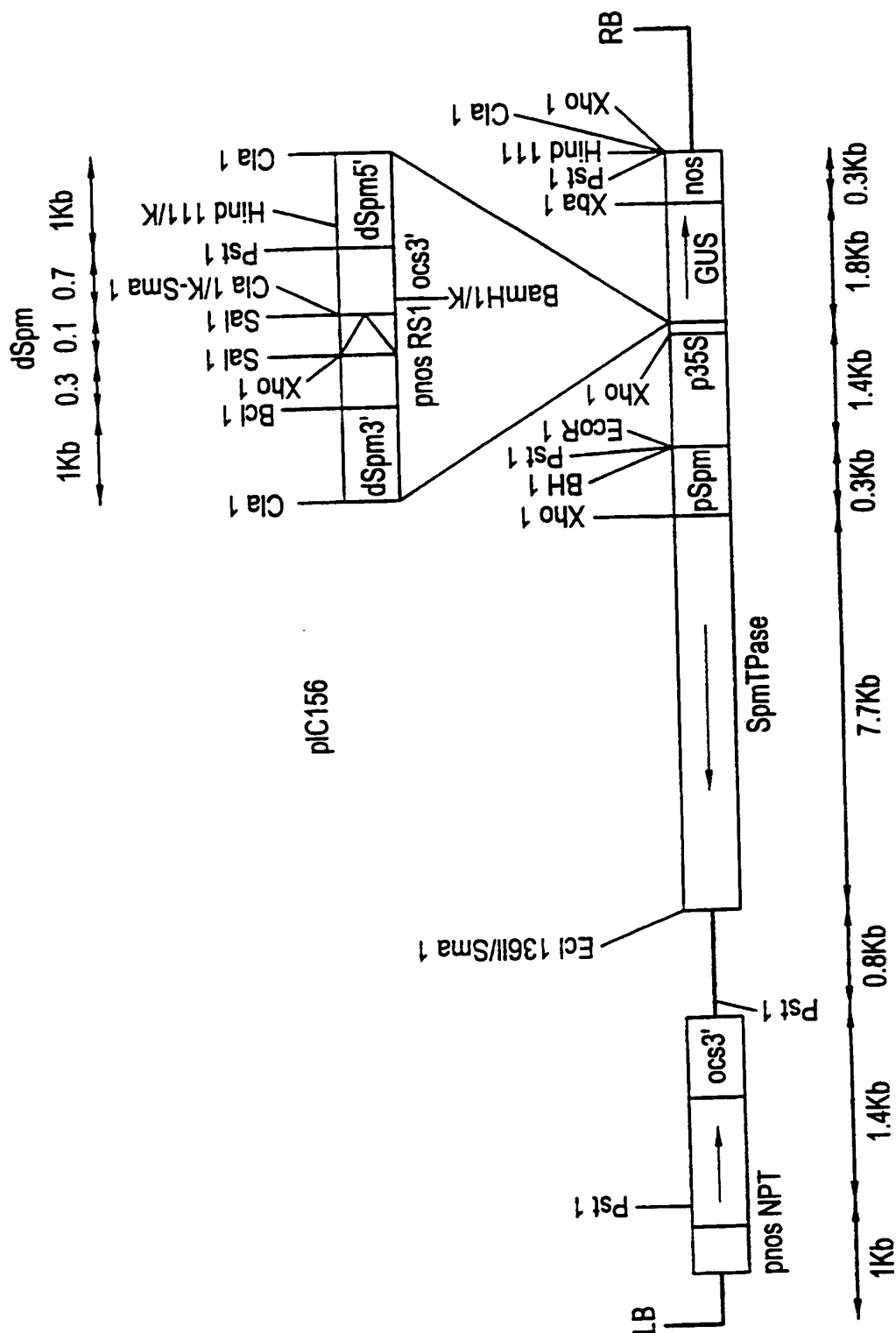


FIG. 2

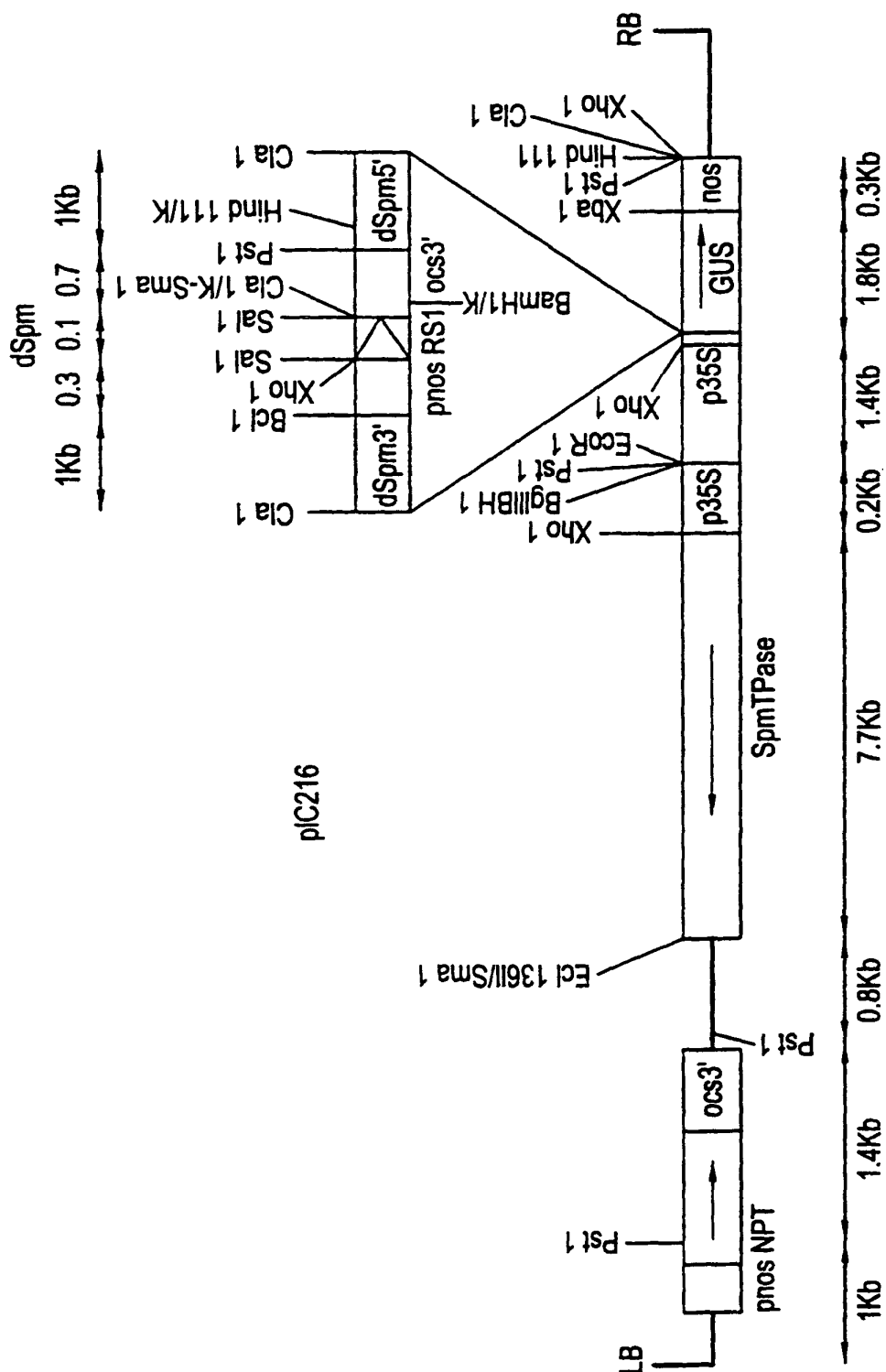


FIG. 3

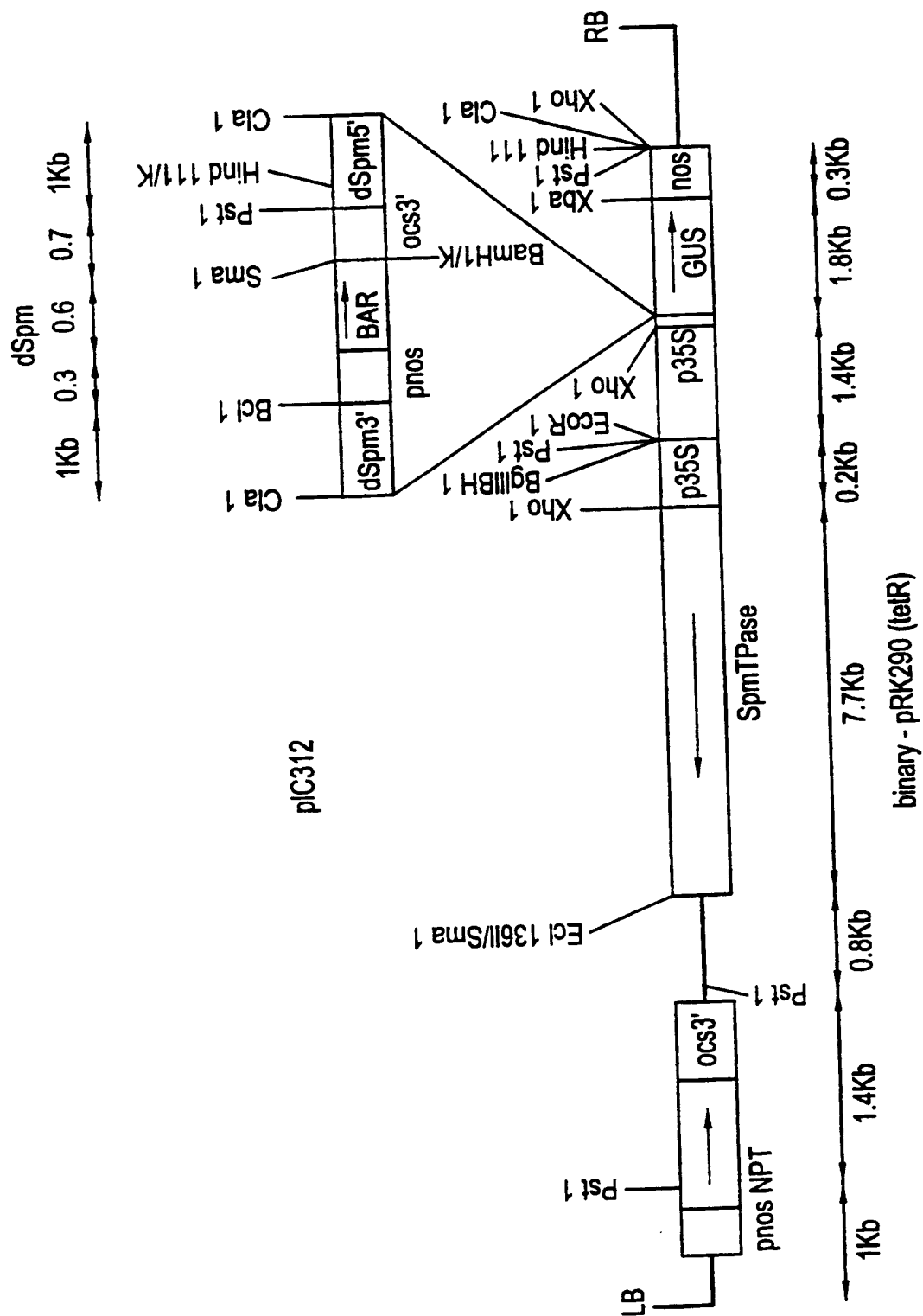


FIG. 4

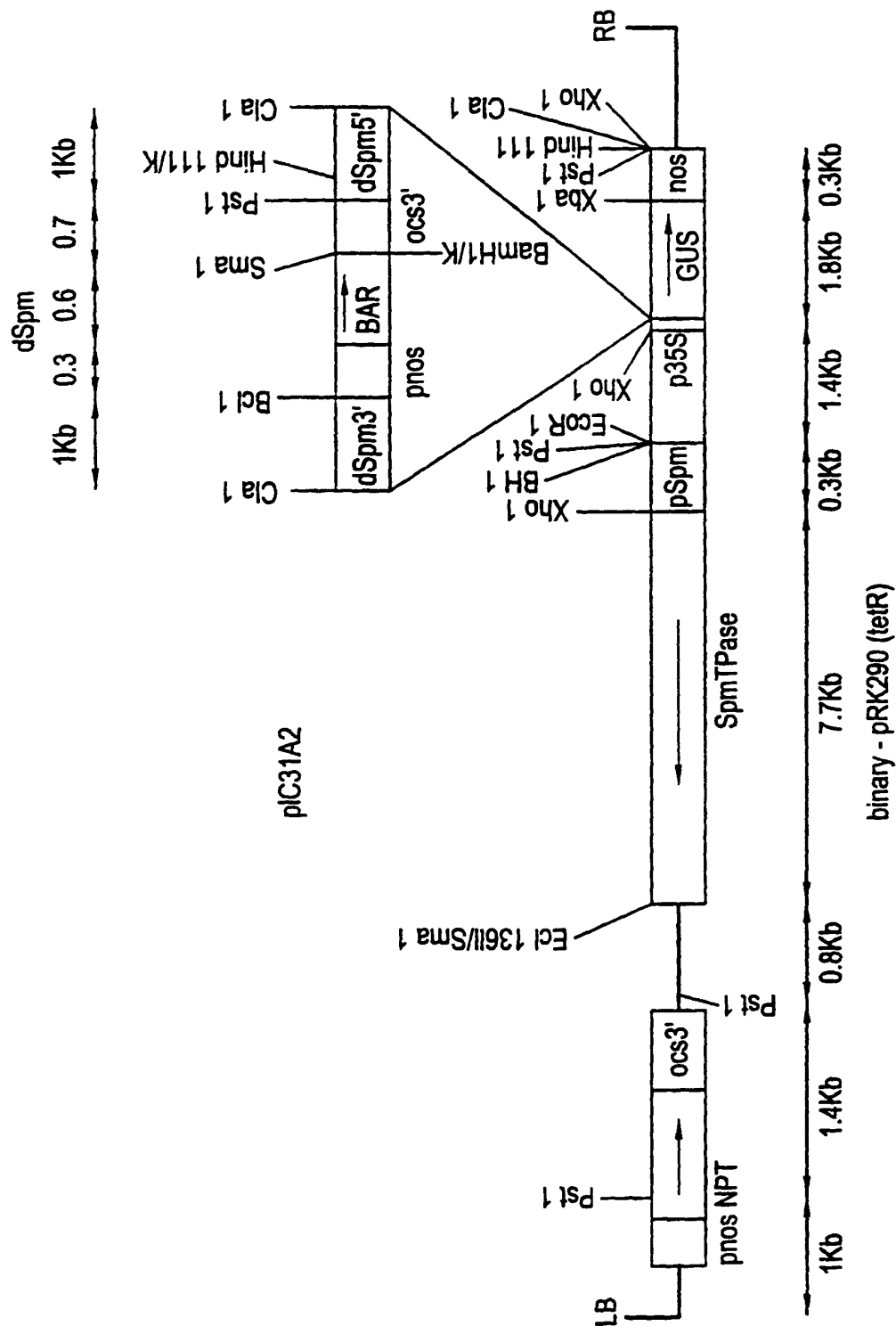
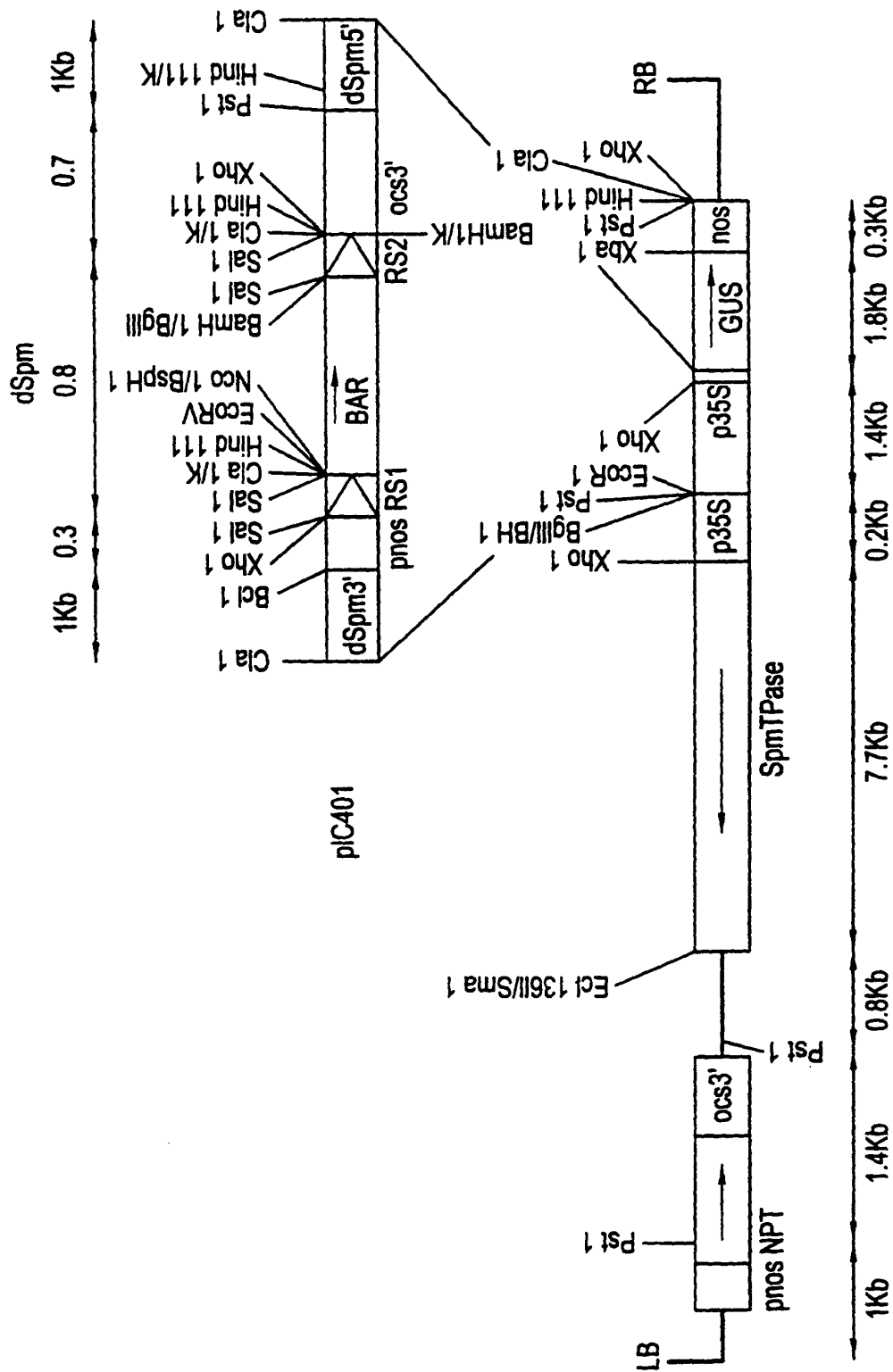


FIG. 5



PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 09 OCT 2001

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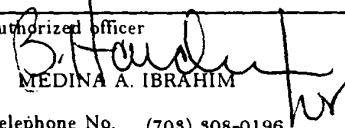
PCT

Applicant's or agent's file reference ICON-001	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US00/13555	International filing date (day/month/year) 17 MAY 2000	Priority date (day/month/year) 17 MAY 1999
International Patent Classification (IPC) or national classification and IPC Please See Supplemental Sheet.		
Applicant ICON GENETICS, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets.
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
 These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 08 DECEMBER 2000	Date of completion of this report 18 AUGUST 2001
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer  MEDINA A. IBRAHIM
Facsimile No. (703) 305-3230	Telephone No. (703) 308-0196

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/13555

I. Basis of the report**1. With regard to the elements of the international application:***☒ the international application as originally filed☒ the description:

pages 1-18, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

☒ the claims:

pages 19-21, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

☒ the drawings:

pages 1-6, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

☒ the sequence listing part of the description:

pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

☒ the description, pages NONE
☒ the claims, Nos. NONE
☒ the drawings, sheets/fig NONE

5. ☐ This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

**Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/13555

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. statement

Novelty (N)

Claims 1-36 YES

Claims NONE NO

Inventive Step (IS)

Claims 1-36 YES

Claims NONE NO

Industrial Applicability (IA)

Claims 1-36 YES

Claims NONE NO

2. citations and explanations (Rule 70.7)

Claims 1-36 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a method for transferring a gene of interest having excisable flanking sequences from a first plant (a donor) transformed with said gene to a second plant of interest (a recipient), without movement of any native genomic DNA of the donor. Transgenic plants produced said methods have industrial applicability.

____ NEW CITATIONS ____

NONE

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/13555

Supplemental B x

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

CLASSIFICATION:

The International Patent Classification (IPC) and/or the National classification are as listed below:

IPC(7): A01H 5/00, 5/10, ; C12N 5/04, 15/05, 15/09 and US Cl.: 435/468, 419; 800/260, 277, 278, 291, 295, 298, 320, 320.1, 320.2, 320.3, 306, 312, 317.2, 317.3

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To: SHAWN P. FOLEY
LERNER, DAVID, LITTENBERG, KRUMHOLZ &
MENTLIK, LLP
600 SOUTH AVENUE WEST
WESTFIELD, NEW JERSEY 07090

PCT

NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of Mailing
(day/month/year)

04 OCT 2001

Applicant's or agent's file reference

ICON-001

IMPORTANT NOTIFICATION

International application No.

PCT/US00/13555

International filing date (day/month/year)

17 MAY 2000

Priority Date (day/month/year)

17 MAY 1999

Applicant

ICON GENETICS, INC.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices)(Article 39(1))(see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

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Name and mailing address of the IPEA/US

Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer

MEDINA A. IBRAHIM

Telephone No. (703) 308-0196

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference ICON-001	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/US00/13555	International filing date (day/month/year) 17 MAY 2000	Priority date (day/month/year) 17 MAY 1999
International Patent Classification (IPC) or national classification and IPC Please See Supplemental Sheet.		
Applicant ICON GENETICS, INC.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the report

II ☐ Priority

III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability

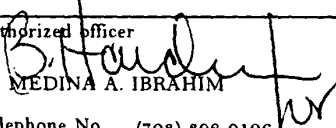
IV ☐ Lack of unity of invention

V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 08 DECEMBER 2000	Date of completion of this report 18 AUGUST 2001
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer  MEDINA A. IBRAHIM
Facsimile No. (703) 305-3230	Telephone No. (703) 308-0196

I. Basis of the report**1. With regard to the elements of the international application: ***

- ☒ the international application as originally filed
- ☒ the description:
pages 1-18, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____
- ☒ the claims:
pages 19-21, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____
- ☒ the drawings:
pages 1-6, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____
- ☒ the sequence listing part of the description:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/fig NONE

5. ☐ This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

**Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US00/13555

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. statement**

Novelty (N)	Claims <u>1-36</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-36</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-36</u>	YES
	Claims <u>NONE</u>	NO

2. citations and explanations (Rule 70.7)

Claims 1-36 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest a method for transferring a gene of interest having excisable flanking sequences from a first plant (a donor) transformed with said gene to a second plant of interest (a recipient), without movement of any native genomic DNA of the donor. Transgenic plants produced said methods have industrial applicability.

_____ NEW CITATIONS _____
NONE

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

national application No.

PCT/US00/13555

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

CLASSIFICATION:

The International Patent Classification (IPC) and/or the National classification are as listed below:

IPC(7): A01H 5/00, 5/10, ; C12N 5/04, 15/05, 15/09 and US Cl.: 435/468, 419; 800/260, 277, 278, 291, 295, 298, 320, 320.1, 320.2, 320.3, 306, 312, 317.2, 317.3

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property Organization
International Bureau



(43) International Publication Date
23 November 2000 (23.11.2000)

PCT

(10) International Publication Number
WO 00/70019 A3

(51) International Patent Classification⁷: **A01H 5/00**,
5/10, C12N 5/04, 15/05, 15/09

(21) International Application Number: PCT/US00/13555

(22) International Filing Date: 17 May 2000 (17.05.2000)

(25) Filing Language: English

(26) Publication Language: English

(30) Priority Data:
60/134,459 17 May 1999 (17.05.1999) US

(71) Applicant (for all designated States except US): **ICON GENETICS, INC.** [US/US]; Suite 134, 66 Witherspoon Street, Princeton, NJ 08542 (US).

(72) Inventors; and

(75) Inventors/Applicants (for US only): **KUCHUK, Nikolay V.** [UA/UA]; Uborevicha Street, 27, Apartment 145, Kiev 252179 (UA). **KLIMYUK, Victor** [GB/GB]; 98 North Park Avenue, Norwich NR4 7EG (GB).

(74) Agents: **FOLEY, Shawn, P.** et al.; Lerner, David, Littenberg, Krumholz & Mentlik, LLP, 600 South Avenue West, Westfield, NJ 07090 (US).

(81) Designated States (national): AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CR, CU, CZ, DE, DK, DM, DZ, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, TZ, UA, UG, US, UZ, VN, YU, ZA, ZW.

(84) Designated States (regional): ARIPO patent (GH, GM, KE, LS, MW, SD, SL, SZ, TZ, UG, ZW), Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

Published:

- With international search report.
- Before the expiration of the time limit for amending the claims and to be republished in the event of receipt of amendments.

(88) Date of publication of the international search report:
8 February 2001

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

(54) Title: PROCESS OF RAPID VARIETY-INDEPENDENT PLANT TRANSFORMATION

(57) Abstract: Disclosed is a method of making transgenic plants. Heterologous DNA is first introduced into a donor plant, plant cell or protoplast to a plant cell or protoplast, and then moved from the donor to a recipient plant, plant cell or protoplast unaccompanied by any native genomic DNA of the donor. The donor and recipient are chosen that produce unstable progeny or demonstrate preferential segregation or sorting out. The DNA may be inserted randomly or at specific locations in the genome of the recipient plant. Also disclosed are transgenic plants produced by the methods, and plant progeny, plant parts and seeds and seed parts from the plants.

WO 00/70019 A3

INTERNATIONAL SEARCH REPORT

 International application No.
PCT/US00/13555

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : A01H 5/00, 5/10, ; C12N 5/04, 15/05, 15/09

US CL : Please See Extra Sheet.

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 435/468, 419; 800/260, 277, 278, 291, 295, 298, 320, 320.1, 320.2, 320.3, 306, 312, 317.2, 317.3

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

Please See Extra Sheet.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 5,482,852 A (YODER et al) 09 January 1996 (09.01.96), see entire document, especially columns 10-11, 15, 20-21	1-36
Y	DUDITS et al. Transfer of Resistance Traits from Carrot into Tobacco by Asymmetric Somatic Hybridization : Regeneration of Fertile Plants. Proc. Natl. Acad. Sci. USA. December 1987, Vol. 84, pp. 8434-8438, see pages 8434-8437.	1-36
Y,P	US 5,965,791 A (EBINUMA et al) 12 October 1999 (12.10.99) see entire document, especially columns 4-7, 26-32	1-24
A	US 5,501,967 A (OFFRINGA et al) 26 March 1996 (26.03.96) see entire document, especially columns 15-23	1-36



Further documents are listed in the continuation of Box C.



See patent family annex.

* Special categories of cited documents:	*T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
A document defining the general state of the art which is not considered to be of particular relevance	*X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
E earlier document published on or after the international filing date	*Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	*G* document member of the same patent family
O document referring to an oral disclosure, use, exhibition or other means	
P document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

17 OCTOBER 2000

Date of mailing of the international search report

28 NOV 2000

 Name and mailing address of the ISA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer

MEDINA A. IBRAHIM

Telephone No. (703) 308-0196

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US00/13555

A. CLASSIFICATION OF SUBJECT MATTER:

US CL :

435/468, 419; 800/260, 277, 278, 291, 295, 298, 320, 320.1, 320.2, 320.3, 306, 312, 317.2, 317.3

B. FIELDS SEARCHED

Electronic data bases consulted (Name of data base and where practicable terms used):

STN/CAS, WEST2.0

search terms: transposable elements, transposition, transposase, dSpm, recombination site, unstable progeny, somatic cell fusion or protoplast fusion, semigamy mutation, Tripsacum, Orychophragmus, Glycine tomentella